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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/655,886	09/06/2000	Jeffrey L. Hirka	47004.000084	8892

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EXAMINER

CHENCINSKI, SIEGFRIED E

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/655,886

Applicant(s)

HIRKA ET AL.

Examiner

Siegfried E. Chencinski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**1. Claims 1-51 are rejected** under 35 U.S.C. 102(b) as being anticipated by Atkins (US Patent 5,644,727).

**Re. Claim 1 & 24**, Atkins anticipates a system and method for accessing funds in at least one cash account, comprising the steps of (Title; Fig. 3 – Cash Account is inherent):

a) interfacing to an authorization server to authorize individual transactions initiated through use of a linked account instrument against a predetermined cumulative limit on said at least one cash account (Linked Account Management System – Abstract, lines 20-23, 25-28; Predetermined - Col. 7, lines 20-30; Server – Col. 7, line 30; Bank/Financial Institution Management – Col. 11, lines 3-27; Account management System - Col. 29, lines 3-25); and

b) performing sweeps of said at least one cash account to determine whether charges incurred through use of the linked account card can be satisfied by funds in said at least one cash account, or charged against at least one designated backing credit account (Sweeps – Col. 7, lines 42-45; Credit – Col. 7, line 26).

**Re. Claim 2 & 25**, Atkins anticipates a system and method of claims 1 and 24, wherein said at least one cash account comprises at least one demand deposit account (Fig. 3 – A Demand Deposit Account is Inherent).

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**Re. Claim 3 & 26**, Atkins anticipates a system and method of claims 1 and 24, wherein said at least one demand deposit account comprises a plurality of demand deposit accounts (Fig. 3 – A Demand Deposit Account is Inherent).

**Re. Claim 4 & 27**, Atkins anticipates a system and method of claims 1 and 24, wherein step (a) further comprises the step of c) holding said at least one cash account at any financial institution (Col. 27, line 56 – Col. 28, line 25; Col. 29, lines 3-25. The use of accounts in a variety of financial institutions is inherent.).

**Re. Claim 5 & 28**, Atkins anticipates a system and method of claims 1 and 24, wherein said at least one credit account comprises a plurality of credit accounts (Col. 27, line 56 – Col. 28, line 25; Col. 29, lines 3-25. The use of a plurality of credit accounts is inherent.).

**Re. Claim 6 & 29**, Atkins anticipates a system and method of claims 1 and 24, wherein step (b) further comprises the step of: d) holding said at least one credit account at any financial institution (Col. 27, line 56 – Col. 28, line 25; Col. 29, lines 3-25. The use of a plurality of credit accounts is inherent.).

**Re. Claim 7 & 30**, Atkins anticipates a system and method of claims 6 and 24, wherein step (b) further comprises the step of: e) providing an associated credit line for said at least one credit account that is at least equal to the predetermined cumulative limit (Col. 29, lines 5-6).

**Re. Claim 8 & 31**, Atkins anticipates a system and method of claims 1 and 24, wherein the authorization server comprises at least one of an account information database, an account balance database, and a transaction history database (col. 7, lines 27-30; Col. 28, line 66 – Col. 29, line 2).

**Re. Claim 9 & 32**, Atkins anticipates a system and method of claims 1 and 24, wherein step (a) further comprises the step of: f) generating individual automated clearing house debits for each transaction initiated with the linked account instrument, and authorized by the authorization server (Bank operation of system – Col. 7, lines 47-53; ACH transaction information is an inherently available type of information to provide to a customer in this system.).

**Re. Claim 10 & 33**, Atkins anticipates a system and method of claims 9 and 32, wherein step (f) further comprises the step of: g) processing the automated clearing house debits against said at least one cash account via an automated clearing house (Inherent to Atkins, since the system is to be operated by a bank - Col. 7, lines 47-53).

**Re. Claim 11 & 34**, Atkins anticipates a system and method of claims 10 and 33, wherein step (g) further comprises the step of: h) processing the automated clearing debits against said at least one cash account in the order in which they were generated (Inherent to Atkins due to bank operation of the system).

**Re. Claim 12 & 35**, Atkins anticipates a system and method of claims 10 and 33, wherein step (g) further comprises the step of: i) processing each automated clearing house debit against said at least one cash account based on the relative size of its amount (Bank operation; processing according to a predetermined set of rules is Inherent in Atkins per establishment of predetermined rules - Col. 7, lines 20-30).

**Re. Claim 13 & 36**, Atkins anticipates a system and method of claims 12 and 35, wherein step (i) further comprises the step of: j) processing the smallest debit amounts against said at least one cash account first, leaving larger debits that cannot be satisfied by said at least one cash account to be processed against said at least one credit account (Inherent in Atkins per establishment of predetermined rules).

**Re. Claim 14 & 37**, Atkins anticipates a system and method of claims 12 and 35, wherein step (i) further comprises the step of: k) processing the largest debit amounts against said at least one cash account first, leaving smaller debits that cannot be satisfied by said at least one cash account to be processed against said at least one credit account (Inherent in Atkins per establishment of predetermined rules).

**Re. Claim 15 & 38**, Atkins anticipates a system and method of claims 10 and 33, wherein step (g) further comprises the step of: l) processing an entire debit amount against said at least one credit account in the event that there are funds in said at least one cash account that can only cover a percentage of the debit amount (Inherent in Atkins per establishment of predetermined rules).

**Re. Claim 16 & 39**, Atkins anticipates a system and method of claims 10 and 33, wherein step (g) further comprises the step of: m) processing a first percentage of the

debit amount against said at least one cash account and a second percentage of the debit amount is processed against said at least one credit account in the event that there are funds in said at least one cash account that cannot satisfy the entire debit amount (Inherent in Atkins per establishment of predetermined rules).

**Re. Claim 17 & 40**, Atkins anticipates a system and method of claims 1 and 24, wherein the predetermined cumulative limit is a daily limit (Inherent in Atkins per establishment of predetermined rules).

**Re. Claim 18 & 41**, Atkins anticipates a system and method of claims 17 and 40, wherein step (a) further comprises the step of: n) ceasing to authorize additional transactions attempted with the linked account instrument once the predetermined cumulative limit has been reached (Inherent in Atkins per establishment of predetermined rules; Abstract – lines 25-28).

**Re. Claim 19 & 42**, Atkins anticipates a system and method of claims 18 and 41, further comprising the step of: o) ceasing to authorize transactions attempted with the linked account instrument if a first sweep of said at least one cash account finds insufficient funds to satisfy previous charges incurred through use of the linked account instrument (Inherent in Atkins per establishment of predetermined rules).

**Re. Claim 43**, Atkins anticipates a method of claim 42, further comprising the step of: p) clearing said at least one credit account if a subsequent sweep of said at least one cash account finds adequate funds to satisfy those funds temporarily covered by said at least one credit account (Inherent in Atkins per establishment of predetermined rules).

**Re. Claim 20 & 44**, Atkins anticipates a system and method of claims 19 and 43, further comprising the steps of: q) refreshing the predetermined cumulative limit; and r) authorizing transactions after said at least one credit account has been cleared (Inherent in Atkins per establishment of predetermined rules).

**Re. Claim 21 & 45**, Atkins anticipates a system and method of claims 20 and 44, further comprising the step of: s) charging a user of the linked account instrument a fee for use of said at least one credit account (Col. 11, lines 3-27. Inherent.).

**Re. Claim 22 & 46**, Atkins anticipates a system and method of claims 18 and 42, further comprising the step of t) continuing to cease authorization of transactions attempted

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with the linked account instrument if a predetermined number of subsequent sweeps of said at least one cash account fail to find sufficient funds to satisfy the charges incurred through use of the linked account instrument (Inherent in Atkins per establishment of predetermined rules and inherent bank policies; Abstract – lines 25-28).

**Re. Claim 23 & 47**, Atkins anticipates a system and method of claims 17 and 41, further comprising the step of u) continuing to authorize linked account instrument transactions up to the predetermined cumulative limit against available credit on said at least one credit account, even if a first sweep of said at least one cash account finds insufficient funds to satisfy previous charges (Inherent).

**Re. Claims 48 & 49**, Atkins anticipates a system of claim 1 and a method of claim 24, wherein said authorization server is further configured to automatically withdraw funds from said at least one cash account to cover at least part of the charges incurred through use of the linked account instrument (Cash account - Inherent in Col. 29, II. 3-6; linkage - Column 9, II. 32-39, Col. 10, II. 1-10; real-time transaction processing - Col. 1, II. 23-26).

**Re. Claim 50**, Atkins anticipates a method for accessing funds in at least one cash account, comprising the steps of:

a) interfacing to an authorization server to authorize individual transactions initiated through use of a linked account instrument against a predetermined cumulative limit on said at least one cash account (see claim 1, 1<sup>st</sup> element); and

b) performing at least one automatic withdrawal from said at least one cash account to satisfy at least part of the charges incurred through use of the linked account instrument (Inherent).

**Re. Claim 51**, Atkins anticipates a system for processing electronic transactions, comprising:

a first interface to at least one cash account against which charges incurred through use of a linked account instrument are drawn (Col. 9, II. 32-39; Col. 10, I. 4);

a second interface to at least one credit account used to back said at least one cash account in the event of insufficient funds in said at least one cash account to cover the charges incurred through the use of the linked account instrument (Col. 7, II. 20-30;

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Col. 7, I. 66 – Col. 8, I. 10; Col. 10, II. 1-4; Col. 9, II. 32-39. Back-up is inherent as part of the Atkins system.); and

an authorization server, communicating with the first interface and the second interface, the authorization server authorizing individual transactions against a pre-determined cumulative limit on said at least one cash account, performing sweeps wherein funds are withdrawn from said at least one cash account at predetermined times, and, if funds are not available from said at least one cash account, using the at least one credit account until the at least one cash account contains sufficient funds to cover the charges incurred through use of the linked account instrument (Col. 7, II. 20-30, 42-45; Col. 8, II. 43-44; servers – Col. 30, I. 62 – Col. 31, I. 7).

### ***Response to Arguments***

2. Applicant's arguments filed April 9, 2004 have been fully considered but they are not persuasive.

The thrust of Applicant's arguments is that the Atkins reference does not disclose transactional features, particularly of the kind in Applicant's invention, by describing Atkins as a financial planning tool. Applicant is referred to Atkins' "SUMMARY OF THE INVENTION", which defines the invention as "a financial analysis, planning and management system ... with means of implementing, coordinating, supervising, planning, analyzing and reporting upon an array of asset accounts such as investments and liability accounts such as credit facilities" (Col. 7, II. 21-26). This demonstrates that Atkins presents a comprehensive system which integrates financial planning and analysis with the financial transactions needed to act on the plans and decisions made through the analysis and planning modules. Transactions are mentioned in numerous places, including in Col. 9, II. 35, 38 & 39 and Col. 10, II. 18 & 36. The fact that Atkins' system is far greater in scope and sophistication than Applicant's invention does not invalidate Atkins as prior art covering Applicant's invention. The words managing and implementing clearly signal the transactional aspects of Atkins.

Applicant argues that "First, Atkins does not disclose '*a linked account instrument*' as recited in Claim 1 and Claim 24" (page 5, II. 5-6). Applicant is referred to



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Column 9, ll. 32-39, where Atkins' system automatically carries out linked transactions according to the user's predetermined preferences. Col. 10, ll. 1-10 lists some of the options which the user can choose to link, which include check authorization, which involves a cash account. Also, Atkins begins by stating that "This invention is realized, in the preferred embodiment, on a fault tolerant computer system ... capable of real-time transaction processing" (Col. 1, ll. 23-26). Further explicit mention of the wide variety of transactions and the inclusion of cash accounts is in the following section of Atkins: "transactions include purchase and sale of goods and services or securities, withdrawal or deposit of cash, acquisition of annuities and insurance policies, and access to one or more credit facilities (Col. 29, ll. 3-6). Atkins explicitly includes two types of cash accounts, checking (Col. 10, l. 4) and savings (Col. 13, l. 11), as part of the transaction system.

Applicant also argues that "Second, Atkins does not disclose '*performing sweeps of said at least one cash account*' as recited in Claim 1 and claim 24" (page 6, ll. 14-15). Applicant is referred to Col. 7, ll. 42-45 and Col. 10, ll. 1-5. These sweeps operate at predetermined times, and cover at least one cash account (a check authorization system concerns a cash account). Further, Atkins envisions his system being administered by banks as a service and profit generation tool (Col. 7, ll. 48-53). Banks inherently offer cash accounts as basic tools for serving customers, using this basic tool as a conduit for a wide variety of other service facilities, such as credit and investment facilities. Atkins' system makes use of all of these tools and facilities to serve an individual's financial management needs. A cash account is an essential tool to facilitate the many transactions Atkins describes. Atkins's system makes use of financial leverage, which gives a critical role to the sweep feature of the various accounts and instruments a customer has in play, of which one or more cash accounts are an essential part.

Applicant's arguments with respect to claims 48-51 have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

**3. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is 703-305-6199. The Examiner can normally be reached Monday through Friday, 9am to 6pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Hyung S. Sough, can be reached on 703-308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

*Commissioner of Patents and Trademarks Washington D.C. 20231*

or faxed to:

(703)872-9306 [Official communications; including After Final communications labeled "Box AF"]

(703) 746-9601 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2411 Crystal Drive, Arlington, VA, 7th floor receptionist.


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SEC

July 15, 2004

  
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